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H.R. 8, North American Energy Security and Infrastructure Act of 2015

FLOOR SITUATION

On Tuesday, December 1, 2015, the House will begin consideration of [H.R. 8](#), the *North American Energy Security and Infrastructure Act of 2015*, under a [general debate rule](#). H.R. 8 was introduced on September 16, 2015, by Rep. Fred Upton (R-MI) and was referred to the Committee on Energy and Commerce, and in addition, to the Committees on: Science, Space, and Technology; Education and the Workforce; Oversight and Government Reform; and Foreign Affairs. The Committee on Energy and Commerce ordered the bill reported, as amended, by a vote of 32 to 20 on September 30, 2015. The Rules Committee print combines the text of H.R. 8 with [H.R. 2295](#) and [H.R. 2358](#), as reported by the Committee on Natural Resources. Rep. Fred Upton (R-MI) has submitted a [Manager's Amendment](#) to the bill that eliminates and modifies various provisions in the bill. Click [here](#) for a summary of the Manager's Amendment.

SUMMARY

H.R. 8 amends current law and authorizes activities, to be administered primarily by the Department of Energy (DOE), in an effort to advance energy infrastructure development, modernization, and protection; enhance domestic energy security; and promote energy efficiency and government accountability. Major provisions of the bill are detailed below:

Expedited Interstate Energy Project Review—The bill requires the Federal Energy Regulatory Commission (FERC) to expedite the review process for federal energy related applications, such as certain pipeline applications, and to make certain information regarding the process available on its website. This includes requiring FERC to identify all agencies considering an aspect of an application and set the schedule for review.¹

According to the Committee, there is evidence that FERC lacks the ability to enforce agency decisional deadlines related to natural gas pipeline applications. To address this, the bill reinforces FERC's role as the lead agency to coordinate concurrent permit reviews, establish timelines, and require transparency in the process.² The bill also makes various other changes to FERC's authorization.

¹ See Energy and Commerce Committee, [Full Committee Markup on H.R. 8, H.R. 3242 Background Memo](#), September 30, 2015.

² See [House Report 114-347](#) at 62.

Natural Gas Export Authorization—The bill streamlines the regulatory process for authorizing liquefied natural gas (LNG) exports by establishing a 30-day deadline for DOE to act on applications at the conclusion of the review required by the National Environmental Policy Act.³

“DOE’s Office of Fossil Energy is responsible for authorizing the export of LNG from the U.S. Authorization may be granted if the export of LNG is determined to be consistent with the ‘public interest.’ [...] Authorization is automatically determined to be in the public interest if the export will be made to a country with which the U.S. has a free trade agreement that provides national treatment for trade in natural gas. Otherwise, an export may be authorized after, among other things, the DOE provides public notice and opportunity for the public to comment on whether the authorization is in the public interest.”⁴

Rights-of-Ways (ROWs) for Natural Gas Pipelines—The bill requires the Secretary of the Interior to identify and designate National Energy Security Corridors for the construction of natural gas pipelines on Federal land. The bill specifically focuses on lands managed by the National Park Service (NPS) as the agency currently interprets that it does not have authority to grant ROWs for such use under current law. According to the Committee, “natural gas pipelines construction projects have been severely constricted in areas where pipeline ROWs must cross federal lands. Currently, the Mineral Leasing Act provides authority for the Secretary of the Interior to issue ROWs for pipelines on federal lands; however, NPS lands are explicitly exempt. For this reason, an applicant for a ROW is forced to seek Congressional authorization to obtain legal approval for a natural gas pipeline on NPS lands.”⁵ This provision was inserted into the bill by the Rules Committee print, as it includes the text of H.R. 2295.

Energy Emergency Preparedness— The bill directs the Secretary of Energy to develop and adopt procedures to enhance communication and coordination between the DOE, federal partners, state and local governments, and the private sector to improve emergency response and recovery. The bill authorizes the Secretary to take emergency measures to protect the bulk power system or defense critical electric infrastructure, including ordering critical electric infrastructure owners and operators to take certain actions. The bill also provides for voluntary sharing and protection of critical electric infrastructure information between the private sector and the federal government, to work together to anticipate and address electric grid vulnerabilities.⁶

Strategic Transformer Reserve—The bill requires DOE to submit a plan to Congress evaluating the feasibility of establishing a Strategic Transformer Reserve for the storage of spare power transformers and other critical equipment to temporarily replace critically damaged power transformers. According to the Committee, “strategically-located spare large power transformers will diminish the vulnerability of the United States to multiple risks facing electric grid reliability, including physical attack, cyber-attack, electromagnetic pulse, geomagnetic disturbances, severe weather, and seismic events.”⁷

Energy and Manufacturing Workforce Development—The bill directs the Secretary of Energy to establish a comprehensive program to improve education and training for energy and manufacturing-related jobs. The Secretary also would be directed to provide direct assistance to schools, community colleges, workforce development organizations, non-profit organizations, labor organizations,

³ See Committee on Energy and Commerce Markup, [Amendment in the Nature of a Substitute to H.R. 8 Section-by-Section Analysis](#), September 29, 2015.

⁴ See CRS Report, [“A Restriction on Liquefied Natural Gas \(LNG\) Exports: An Actionable Subsidy Under WTO Rules?”](#) March 19, 2013.

⁵ See [House Report 114-285](#) at 3.

⁶ See Energy and Commerce Committee, [Full Committee Markup on H.R. 8, H.R. 3242 Background Memo](#), September 30, 2015.

⁷ Id.

apprenticeship programs, and minority serving institutions to carry out this program.⁸ The bill also requires the Secretary to identify energy-sector entities that are scheduled for closure, such as coal fired power plants and coal mines, to ensure their employees have access to job training and workforce development programs, which can assist them in transitioning to new employment.⁹ (*Note: the Manager's Amendment strikes the language authorizing this training program*)

Energy Security—The bill creates an interagency task force to coordinate with Canada and Mexico on mutually-beneficial energy policy decisions affecting North America, as well as Trans-Atlantic and Trans-Pacific forums to improve collaboration with our allies regarding energy security.¹⁰

Energy Reliability—The bill also allows for improved maintenance, upkeep, and certain other measures relating to electricity rights-of-ways (ROWs) on U.S. Forest Service and Bureau of Land Management (BLM) lands in an effort to increase electricity reliability and prevent forest fires. According to the Committee, “when a ROW is not properly maintained, a tree can grow into or fall on to a power line, causing fires and a domino effect of electricity blackouts.” Some of these electricity ROWs are not properly maintained which can cause significant and catastrophic damage if fire spreads to the surrounding lands.¹¹ This provision was inserted into the bill by the Rules Committee print, as it includes the text of H.R. 2358 (*Note: the Manager's Amendment makes certain changes to the text of this provision*).

Federal Agency Energy Efficiency— The bill requires federal agencies to coordinate with the Office of Management and Budget (OMB), DOE, and the Environmental Protection Agency (EPA) to develop an implementation strategy for the maintenance, purchase, and use of energy-efficient and energy saving information technologies. The bill also requires DOE-funded entities to report to Congress on other certain energy efficiency programs, known as Industrial Assessment Centers (IACs), and also requires various other changes to IACs¹² (*Note: the Manager's Amendment strikes the language in this provision affecting IACs*). The bill also repeals a provision included in the Energy Independence and Security Act of 2007 that requires a 100 percent reduction in “fossil fuel-generated energy,” such as coal and natural gas, in all new and modified federal buildings by the year 2030.¹³

Federal Energy Efficiency Programs—The bill requires the DOE to recognize voluntary verification programs for air conditioning, furnace, boiler, heat pump, and water heating products to demonstrate compliance with DOE energy efficiency and conservation standards and the Energy Star program. The bill also directs the Federal Trade Commission to initiate a rulemaking to develop Energy Guide labels that promote the smart grid capabilities of certain products.¹⁴ The bill also promotes the continued development of energy-efficient appliances through the Energy Star Program by deterring class action lawsuits that could undermine participation in the program.¹⁵

Coordination of Energy Retrofitting Assistance for Schools—The bill directs DOE to establish a clearinghouse to disseminate information regarding available programs and financing mechanisms that could be used to help retrofit and build more energy-efficient schools.

⁸ Id.

⁹ See Committee on Energy and Commerce Markup: [Amendment in the Nature of a Substitute to H.R. 8 Section-by-Section Analysis](#), September 29, 2015.

¹⁰ See [House Report 114-347](#) at 66.

¹¹ See [House Report 114-287](#) at 6.

¹² See Energy and Commerce Committee, [Full Committee Markup on H.R. 8, H.R. 3242 Background Memo](#), September 30, 2015.

¹³ See Committee on Energy and Commerce Markup: [Amendment in the Nature of a Substitute to H.R. 8 Section-by-Section Analysis](#), September 29, 2015.

¹⁴ See Energy and Commerce Committee, [Full Committee Markup on H.R. 8, H.R. 3242 Background Memo](#), September 30, 2015.

¹⁵ Id.

Strategic Petroleum Reserve—The bill establishes a budget-neutral Energy Security and Infrastructure Modernization Fund to provide for the construction, maintenance, repair, and replacement of Strategic Petroleum Reserve facilities. The bill also establishes a competitive grant program for states and local governments to enhance the resilience and reliability of the electric grid. The Secretary of Energy would be authorized to drawdown and sell crude oil from the Strategic Petroleum Reserve to reinvest in energy security for the United States.¹⁶ The bill also directs DOE to conduct a long range strategic review to specify the near and long-term roles of the Strategic Petroleum Reserve and recommend an action plan to achieve certain goals.¹⁷ (*Note: the Manager's Amendment strikes all of the language in this provision*).

Hydroelectric Power Provisions—The bill reauthorizes through fiscal year 2025¹⁸ a program that incentivizes increased hydroelectric production by providing payments to hydroelectric facilities that make capital improvements that improve energy efficiency.¹⁹ (*Note: the Manager's Amendment strikes the language extending authorization of this incentive program*) The bill also encourages the development of new hydropower facilities at existing non-powered dams²⁰ by authorizing the FERC to issue certain exemptions for qualifying facilities. “Only 3 percent of the nation’s 80,000 dams currently generate electricity.”²¹

WaterSense Authorization—The bill codifies the voluntary WaterSense program at EPA, which “seeks to help consumers make smarter water choices that save money and maintain high environmental standards without compromising performance. Products and services that have earned the WaterSense label have been certified to be at least 20 percent more efficient without sacrificing performance.”²²

GAO Electricity Price Study—The bill requires the Government Accountability Office (GAO) to study if the structures of regional power transmission organizations produce rates that are just and reasonable.²³

Funding—The bill provides that that amounts required for carrying out this Act, other than funds for the Energy Security and Infrastructure Modernization Fund (*Note: the Manager's Amendment strikes language authorizing this Fund*), shall be derived from amounts appropriated under authority provided by enacted law.²⁴

BACKGROUND

In recent years, the United States has experienced dramatic increases in fossil fuel energy production, made possible in part by advancements in extractment technology. However, changing market dynamics, new regulations, and emerging threats have created new energy security and

¹⁶ See Committee on Energy and Commerce Markup: [Amendment in the Nature of a Substitute to H.R. 8 Section-by-Section Analysis](#), September 29, 2015.

¹⁷ See Energy and Commerce Committee, [Full Committee Markup on H.R. 8, H.R. 3242 Background Memo](#), September 30, 2015.

¹⁸ See Committee on Energy and Commerce Markup: [Amendment in the Nature of a Substitute to H.R. 8 Section-by-Section Analysis](#), September 29, 2015.

¹⁹ [42 U.S.C. 15881](#)

²⁰ Non-powered dams are dams that are not currently equipped with electricity generation equipment; therefore do not produce electricity.

²¹ See National Hydropower Association, [Converting Non-Powered Dams](#)

²² See EPA Website [“What is WaterSense?”](#)

²³ See Committee on Energy and Commerce Markup: [Amendment in the Nature of a Substitute to H.R. 8 Section-by-Section Analysis](#), September 29, 2015.

²⁴ *Id.*

reliability challenges. Disruptions in the delivery of electricity have far-reaching economic and public health impacts.²⁵

H.R. 8 seeks to meet modern energy reliability and security challenges with forward-looking solutions, including innovative and advanced technologies that offer new opportunities to improve and bolster electric infrastructure.

According to Energy and Commerce Committee Chairman Fred Upton, “[this bill] marks an important milestone as we work to update our laws for a new era of energy abundance. America has the resources to become an energy superpower. All we need are the right 21st century laws to fulfill our promise. We will continue working toward building a bipartisan consensus as our goal remains getting something to the president’s desk that will be signed into law.”²⁶

COST

The Congressional Budget Office (CBO) [estimates](#) enacting H.R. 8, as reported by the Energy and Commerce Committee, could affect revenues, but that any such effects would total less than \$500,000 in any year. CBO estimates that enacting H.R. 8 would increase direct spending by \$414 million over the 2016 to 2025 period. In addition, CBO estimates that implementing the legislation would, on net, reduce spending subject to appropriation by \$411 million over the 2016 to 2020 period, assuming appropriation actions consistent with the legislation. Because H.R. 8 would affect direct spending and revenues; pay-as-you-go procedures apply. *Note: the Manager’s Amendment makes various changes to the bill, some of which may affect the cost estimate.*

CBO [estimates](#) that enacting H.R. 2295 (the text of which is included in the Rules Committee Print) would have no significant effect on the federal budget. Because enacting the legislation would not affect direct spending or revenues, pay-as-you-go procedures do not apply.

CBO [estimates](#) that enacting H.R. 2358 (the text of which is included in the Rules Committee Print) would cost \$12 million over the 2016 to 2020 period. Because enacting H.R. 2358 would not affect direct spending or revenues, pay-as-you-go procedures do not apply.

STAFF CONTACT

For questions or further information please contact [John Huston](#) with the House Republican Policy Committee by email or at 6-5539.

²⁵ See [House Report 114-347](#) at 62.

²⁶ See Rep. Fred Upton Press Release, [“Upton, Committee Advance Key Energy Legislation.”](#) September 30, 2015.